

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Stephen G. & Nancy Ford,
Appellants,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0816
Parcel No. 180/00864-504-000

On January 30, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Stephen G. and Nancy Ford were self-represented and requested their appeal proceed without a hearing. Assistant Polk County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Stephen G. and Nancy Ford are the owners of a residentially classified property located at 9230 NW Lakeridge Lane, Polk City, Iowa. The property is a two-story home built in 1998 with 2852 square feet of living area and a full basement with 750 square feet of finish. The property also has a deck, patio, open porch, and an attached garage with 1616 square feet. The site is 1.071 acres.

Fords protested to the Board of Review regarding the 2013 assessment of \$407,300, allocated as \$56,000 in land value and \$351,300 in building value. They claimed the property was inequitably assessed and assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). The Board of Review denied the petition.

Fords then appealed to this Board reasserting their claims. They assert the correct fair market value is \$350,000. We note the Fords also wrote in the error ground on their Board of Review petition.

However, their statement was simply referencing their claims of inequity and over assessment.

Therefore, we do not consider an error claim has been raised.

Fords listed four properties on their Board of Review petition that they believed supported a claim of inequity in the assessment.

Address	Assessment	Above Grade Living Area	Basement Finish	Grade
Subject	\$407,300	2852	750	2-05
9298 NW Lakeridge Ln	\$336,100	2555	960	3-05
9274 NW Lakeridge Ln	\$318,500	2688	902	3+10
9286 NW Lakeridge Ln	\$298,400	2324	1068	3+05
9227 NW 36th St	\$344,800	2207	0	2-10

The properties are all built within the same period as the subject (between 1995-1998) and have some similarities but they all have smaller above-grade living area than the subject property, significantly smaller garages, and lack some features such as additional fireplaces. Furthermore, there is no evidence to show these properties recently sold. In order to prove inequity, an assessment/sales ratio analysis is necessary. The analysis typically compares prior year sale prices (2012 sales) to the current year's assessment (2013 assessment) to determine the assessment/sales ratio. For this reason, we give this evidence no consideration.

The Fords also provided some printed data and a written explanation on some additional properties. The record includes partial assessor report printouts and partial print-outs from Zillow and Trulia (on-line real estate databases) regarding a property located at 9290 NW 36th Street. Fords did not provide any explanation of this property, but the limited data in the record indicates it was a listing in their neighborhood but was ultimately withdrawn from the market. Because it has not sold, we give it no consideration for either an equity or market value claim.

They also provide partial assessor report printouts for properties located at 9154 NW Lakeridge Lane, 9285 NW 36th Street, and 9209 NW Polk City Drive, which recently sold.

Address	2013 Assessment	Sales Price	Sale Date
9154 NW Lakeridge Ln	\$411,200	\$360,000	Jul-12
9285 NW 36th St	\$413,900	\$370,000	Apr-13
9209 NW Polk City Dr	\$382,000	\$305,000	Jan-13

All of the sale prices are less than the assessments, which could suggest over-assessment based on an equity analysis. Only one sale occurred in 2012, and more than one sale is required to prevail in an equity claim. However, the two 2013 sales as compared to the 2013 assessment would suggest the assessments may need to be reduced in the future. Nevertheless, the record is incomplete and there is limited information to determine that these sales are sufficiently similar to the subject for an equity analysis. We do note the record indicates 9154 NW Lakeridge Lane has an in-ground swimming pool, which would indicate it is not reasonably comparable to the subject property.

Even though these sales could be used in a market value claim, the record is limited and the Fords did not adjust these sales for differences to establish a market value for their property. The Fords also noted the reduction of another property in their neighborhood (9274 NW Lakeridge Lane) that resulted after a protest to the Board of Review and an appeal to this Board. However, there is no information regarding this property in the record.

The Certified Records includes an Appraiser Analysis, which was presumably relied upon by the Board of Review in its deliberations. The analysis was completed by Zaimes, an appraiser in the Assessor's Office and considered both market comparables and equity comparables.

Zaimes relied on five properties in his equity analysis, however like Ford's comparables, there is no evidence that any of them sold in 2012. Therefore, we do not find it relevant.

Zaimes also used five sales for a market value comparison. Four of the sales occurred in 2012, and one sold in 2011. The sales prices ranged from \$318,400 to \$360,000. After making adjustments for difference, Zaimes asserts the sales support the assessment of \$407,300. We note all five

properties sold for significantly less than the subject's assessment; and all of the properties thus required significant upward adjustments. Appraisal methodology prefers the process of bracketing. Bracketing is the process used by an appraiser when selecting comparable properties. APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 33 (4th ed. 2002). Recognized practice is to include comparables that are superior *and* inferior to the subject property. *Id.* Zaimes selected five properties that are inferior to the subject and require upward gross adjustments from roughly 35% to 48%. Without any explanation, it appears the subject could be an over-improvement for the area, for which is not accounted for in the analysis. Failing to explain the rationale for submitting only inferior sales limits the persuasiveness of Zaimes analysis. Nevertheless, the Fords bear the burden of proof in the appeal and have failed to show the property is inequitably or over-assessed.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value.

§ 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Fords did not prove that their property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

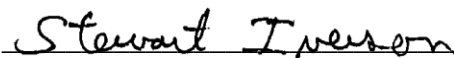
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Fords failed to provide any evidence such as comparables sales, an appraisal, or cost analysis to determine fair market value of their property.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of Stephen G. and Nancy Ford's property located at 9230 NW Lakeridge Lane, Polk City, Iowa, is affirmed.


Dated this 18th day of February 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Stephen G. & Nancy Ford
9230 NW Lakeridge Lane
Polk City, IA 50226
APPELLANTS

Ralph Marasco, Jr. and David Hibbard
Assistant Polk County Attorneys
111 Court Avenue
Room 340
Des Moines, Iowa 50309
ATTORNEYS FOR APPELLEE